

EXHIBIT

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Kiely, Christian

From: Andrew Villacastin <AVillacastin@BSFLLP.com>
Sent: Wednesday, January 12, 2022 5:38 PM
To: Kiely, Christian
Cc: Cooper, Howard; Sigrid McCawley; Megan Hirsh
Subject: RE: Subpoena to Valerie Rivera

Christian,

On our call, we discussed the files that we would produce as a compromise, and I told you that they contained the questions that Ms. Giuffre was asked. That is true whether or not I was able to open a file and read you the exact questions over the phone, and is why my December 27 email described our potential production as including the “questions, answers, [and] charts” for the polygraph described in Exhibit A to your subpoena.

The compromise I offered on December 27, which we discussed on our call, is for a production of that set of materials on a non-waiver basis, subject to the conditions I described. Whether you contend that privilege over these materials was waived by either the Boies or Rivera affidavits (or both), is irrelevant, as we dispute that any such waiver occurred.

When we spoke, you did not ask about the additional materials you requested for the first time in your December 21 email, and by the time we hung up it did not sound as though you intended to impose additional conditions on the terms we discussed. We decline your request to provide additional information on topics that, for the reasons I explained, are irrelevant and privileged.

Best,
Andrew

Andrew Villacastin
Partner

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55 Hudson Yards
New York, NY 10001
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From: Kiely, Christian <ckiely@toddweld.com>
Sent: Tuesday, January 4, 2022 8:17 AM
To: Andrew Villacastin <AVillacastin@BSFLLP.com>
Cc: Cooper, Howard <hcooper@toddweld.com>; Sigrid McCawley <smccawley@bsfllp.com>; Megan Hirsh <MHirsh@bsfllp.com>
Subject: RE: Subpoena to Valerie Rivera

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Andrew,

On our call, I said we would consider a compromise wherein we agreed to narrow the scope of the subpoena in exchange for your agreement to produce the core files generated in connection with Ms. Rivera's polygraph examination of Ms. Giuffre concerning her accusations against Prof. Dershowitz. You represented to me that at least some of these core files, which Ms. Rivera had already supplied to you, were native to a special polygraph software program and that as such, you were unable to open them on your computer to determine their contents. For example, you were unable to tell me whether these files contained the questions that Ms. Giuffre was asked. As I explained in my prior email, we cannot properly consider agreeing to such a compromise without knowing, at least in general terms, the content of the documents Ms. Rivera would be producing pursuant to such an agreement. Nor can we evaluate your burden objections without an understanding of the volume of documents which exist which are responsive to the requests. Under Rule 45, it is your burden to make a showing of undue burden. Finally, your email misstates our position on the waiver of work product protection. Our waiver argument relies primarily on Mr. Boies' affidavit filed in the Giuffre case in which he declared that Ms. Giuffre took and passed a polygraph examination concerning her accusations against Prof. Dershowitz.

We remain open to considering the type of compromise discussed on our call, but cannot make any such proposal until you supply the information requested in my December 21 email. Please let me know by the end of this week whether you will provide it.

Christian

From: Andrew Villacastin <AVillacastin@BSFLLP.com>

Sent: Monday, December 27, 2021 5:21 PM

To: Kiely, Christian <ckiely@toddweld.com>

Cc: Cooper, Howard <hcooper@toddweld.com>; Sigrid McCawley <smccawley@bsfllp.com>; Megan Hirsh <MHirsh@bsfllp.com>

Subject: RE: Subpoena to Valerie Rivera

Christian,

On our call, you said that you would send us a written proposal wherein you would drop the remainder of your discovery requests in exchange for Rivera's production of documents showing what your subpoena referred to as the "questions, answers, [and] charts" for the polygraph described in Exhibit A.

As I explained on the call, your requests are overbroad in seeking "All records and other documents concerning . . ." or "All communications with any attorney or other representative . . . concerning" "any polygraph." As written, the requests call for materials that are irrelevant, protected work product, or are otherwise subject to confidentiality and privacy restrictions.

As such, we stated that we would consider at most a production of the questions and charts for the polygraph to which you assert that any work product was waived by Rivera's affidavit (which contention we dispute) as a compromise, and that any such production would be subject to Ms. Giuffre's consent and your written agreement that you would enter into a FRE 502(d) order wherein any production by Ms. Rivera would not be treated as a waiver of privilege. Please confirm in reply to this email that you are making such a proposal.

We decline to answer the additional requests you make below, which essentially ask us to interpret your requests and then inventory documents "responsive" to them. For the first additional request, we described on the phone that Ms.

Rivera was not able to render the files into pdf format, but that your expert should be able to view the files using his own equipment or copy of polygraph software.

Best,
Andrew

Andrew Villacastin
Partner

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From: Kiely, Christian <ckiely@toddweld.com>
Sent: Tuesday, December 21, 2021 1:28 PM
To: Andrew Villacastin <AVillacastin@BSFLLP.com>
Cc: Cooper, Howard <hcooper@toddweld.com>; Sigrid McCawley <smccawley@bsfllp.com>
Subject: RE: Subpoena to Valerie Rivera

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Andrew,

Before we can make any proposal to potentially narrow the subpoena to Ms. Rivera as discussed on our call last week, I need some additional information from you:

- 1) Please provide a list and brief description of the files native to the polygraph software which were generated in connection with the polygraph of Ms. Giuffre concerning her accusations against Alan Dershowitz, and indicate whether there is a way to produce these in pdf in addition to native format;
- 2) Please specify whether there are other documents, other than the polygraph software native files, and other than documents which are responsive to Request No. 2, which are responsive to Request No. 1, and if so, please provide a brief description of those documents;
- 3) Please specify the approximate volume of documents responsive to Request No. 1; and
- 4) Please specify the approximate volume of documents responsive to Request No. 2.

I look forward to your responses.

Regards,
Christian

From: Kiely, Christian
Sent: Monday, December 13, 2021 4:15 PM
To: Andrew Villacastin <AVillacastin@BSFLLP.com>

Cc: Cooper, Howard <hcooper@toddweld.com>; Sigrid McCawley <smccawley@bsfllp.com>

Subject: RE: Subpoena to Valerie Rivera

Andrew,

Thursday at 4 pm works. Please use the following dial-in number:

1-888-512-3146

Participant code: 66559101

Christian

From: Andrew Villacastin <AVillacastin@BSFLLP.com>

Sent: Monday, December 13, 2021 10:35 AM

To: Kiely, Christian <ckiely@toddweld.com>

Cc: Cooper, Howard <hcooper@toddweld.com>; Sigrid McCawley <smccawley@bsfllp.com>

Subject: RE: Subpoena to Valerie Rivera

Christian,

Please let me know if you're available on Thursday afternoon, say 4pm. Otherwise, we can find a time to speak early next week.

Best,
Andrew

Andrew Villacastin

Partner

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From: Kiely, Christian <ckiely@toddweld.com>

Sent: Thursday, December 9, 2021 7:41 PM

To: Andrew Villacastin <AVillacastin@BSFLLP.com>

Cc: Cooper, Howard <hcooper@toddweld.com>; Sigrid McCawley <smccawley@bsfllp.com>

Subject: Re: Subpoena to Valerie Rivera

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Andrew,

Please let me know your availability tomorrow afternoon or Monday to meet and confer regarding this response. In particular, I would like to understand what basis Ms. Rivera has to refuse to produce Ms. Giuffre's polygraph results on work product grounds where, as you know, David Boies has already disclosed the purported results in an affidavit filed in this action, and where Plaintiff has produced an affidavit from Ms. Rivera which also describes the purported results.

Thank you.

Christian

Christian G. Kiely
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Boston, MA 02110
T: 617.624.4729
www.toddweld.com

On Dec 9, 2021, at 6:19 PM, Andrew Villacastin <AVillacastin@bsfllp.com> wrote:

Counsel,

Please see the attached on behalf of Valerie Rivera.

Best,
Andrew

Andrew Villacastin
Partner

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